



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 22 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jimmy W. Boyd, P.E., REM
Director of Engineering, Environmental, Health, Safety & Governmental Affairs & Purchasing
Production & Technology
Orion Engineered Carbons, LLP
4501 Magnolia Cove Drive, Suite 106, Box 1
Kingwood, TX 77345

Re: Clean Air Act Section 114(a) Supplemental Information Request – Orion Engineered Carbons, LLP

Dear Mr. Boyd:

The United States Environmental Protection Agency ("EPA") hereby requires Orion Engineered Carbons, LLP ("the Company" or "you") to provide the following information to determine the Clean Air Act ("CAA") compliance status of the Company's Orange, Texas carbon black manufacturing facility:

1. The EPA requires Orion to fulfill Request 9 of our Clean Air Act Section 114(a) Supplemental Information Request dated September 3, 2014 and received by Orion on September 8, 2014 ("September 2014 SIR") by performing a stack test of the Company's VOC Incinerator ("Incinerator") stack, Emissions Point Number (EPN) 1-INC, pursuant to the terms of our September 2014 SIR by 30 days from receipt of this letter.

In its May 4, 2015 letter from Jimmy W. Boyd to Patrick Foley, Mr. Boyd stated that, "testing of the incinerator [at the time the remainder of the stack tests were completed on April 3, 2015] was not feasible since the flame extends to the top of the stack." Subsequent to that communication, Orion's plant personnel on site during the EPA's September 15 – 18, 2015 inspection of the Orange, Texas facility informed our inspectors that certain work was being performed at the Orange, Texas facility to enable stack testing of the Incinerator, which has not undergone a comprehensive

stack test, including particulate matter (PM), oxides of nitrogen (NO_x), sulfur dioxide (SO₂), carbon monoxide (CO) and volatile organic compounds (VOC) since May 10, 2000. By email, on October 13, 2015, a description and timeline for the work performed were provided to the EPA. *See* four page document titled, "Item 2.0 VOC Incinerator Plan." We understand based on these communications that the work described as the "Orange incinerator 2015 plan" should have been completed by the end of 2015 and the work "should allow for safe stack testing" of the Incinerator. *See id.* at 4.

2. The EPA requires Orion to submit all documents related to all work performed or contemplated to be performed on or around the incinerator at the Orange, Texas, facility from the dates of our inspection of September 15 – 18, 2015 until receipt of this request, including, but not limited to, all stack testing and work conducted pursuant to or stemming from, the four page document titled, "Item 2.0 VOC Incinerator Plan", sent to the EPA by email of October 13, 2015.
3. The EPA requires Orion to submit all documents related to all work contemplated to be performed on a foregoing basis on or around the Incinerator at the Orange, Texas, facility from the date of receipt of this letter, including, but not limited to, all work conducted pursuant to or in stemming from, the four page document titled, "Item 2.0 VOC Incinerator Plan", sent to the EPA by email of October 13, 2015.
4. The EPA requires Orion to submit all documents related to the Cogeneration Equipment/Waste Heat Boiler (EPN 1A) that have been created or revised since March 15, 2012, including but not limited to, all documents related to work, activities and tasks that have been completed, are in progress, and/or are planned, including maintenance records, engineering proposals, feasibility studies, and cost estimates.
5. The EPA requires Orion to submit all documents related to the design capacity of the Incinerator to process tail gas (or waste gas) by volume.
6. The EPA requires Orion to submit for each day since October 29, 2010, the daily average flow of natural gas and the daily average flow of waste gas to the Incinerator, Cogeneration Boiler 1, Cogeneration Boiler 2, Plant Boiler, and Carbon Black Dryers 1 through 4, in standard cubic feet per minute in hard copy and in electronic format Excel spreadsheet.

Pursuant to section 114(a) of the CAA, 42 U.S.C. § 7414(a), the EPA is authorized to require any person who owns or operates an emissions source to establish and maintain records, make reports, sample emissions (in accordance with the procedures and methods that the Administrator shall prescribe) and provide such other information as it may reasonably require for the purposes of determining whether such person is in violation of any provision of the CAA. For the EPA to determine whether a violation of the CAA has occurred, you are hereby required, pursuant to section 114(a) of the CAA, to provide responses to the enclosed questions and requests for information included in Appendix 2, pursuant to the instructions in Appendix 1. A duly authorized officer or agent of the Company with sufficient knowledge and authority to

certify the response to this request as true, correct, accurate, and complete shall sign and return with the Company's response the Statement of Certification included as Appendix 3.

You are entitled to assert a business confidentiality claim, covering all or part of the information that this request requires, except that no such claim can be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). Any such confidential business information ("CBI") claim must be made in accordance with the procedures described at 40 C.F.R. § 2.203(b) and Appendix 4. The EPA will provide the public with information subject to a claim of CBI only in accordance with the procedures set forth at 40 C.F.R. Part 2, Subpart B. The EPA may provide the public with any information not subject to such a claim without further notice to you. The required submission of information pursuant to Section 114(a) of the Act is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Please be advised that the Company must submit a full and complete response to the information requested in Appendix 2 not later than 30 calendar days after your receipt of this letter. You are under an obligation to preserve all documents requested in this letter until you receive further instructions from the EPA. In addition, the EPA requires you to report any changes or revisions to the information supplied within seven days after the change or revision is made. This requirement to provide the EPA with changed or revised information shall remain in effect until the EPA provides you with written notice of its termination.

Failure to provide the required information may result in the initiation of a civil action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b) ("Section 113(b)"). Section 113(b) allows EPA to bring a civil action for injunctive relief and civil penalties for violations of Section 114. In addition, knowingly providing false information may be actionable under Section 113(c) of the Act, 42 U.S.C. § 7413(c), and 18 U.S.C. §§ 1001 and 1341. The information you provide may be used by the EPA in administrative, civil, and criminal enforcement proceedings. If the Company continues to violate the requirement to comply with Section 114 of the CAA, EPA will consider its related enforcement options, which include issuance of an administrative order and/or civil action.


Please submit your complete response to this request to:

Christopher Williams
Air Enforcement Division
U.S. Environmental Protection Agency
Room 1142C: MC2242-A
Ariel Rios Building - South
1200 Pennsylvania Ave., NW
Washington, DC 20004

Steve Thompson
U.S. Environmental Protection Agency 6EN-AA
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

If you have any questions regarding this information request, please contact Kellie Ortega at (202) 564-5529.

Sincerely,



Phillip A. Brooks, Director
Air Enforcement Division

Enclosures

Cc (via email): Steve Thompson, EPA Region 6
Christopher Williams, EPA Air Enforcement Division
Kellie Ortega, EPA Air Enforcement Division

Appendix 1

When providing the information requested in Requests 2 through 6 of this letter, follow the following instructions and definitions.

Instructions

1. Provide a separate response to each question and subpart of a question
2. Precede each answer with the number of the question to which it corresponds and at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify the EPA as soon as possible.

Electronic Submissions

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (i.e., "PDF") or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (i.e., "OCR") for "image over text" to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for the EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should

allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide submission on physical media such as compact disc, flash drive, or other similar item.
4. Provide a table of contents for each compact disc or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.* In addition, each compact disc or flash drive should be labeled appropriately (e.g., Company Name, Disc 1 of 4 for Information Request Response, Date of Response).
5. Documents claimed as CBI must be submitted on separate discs/drives apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix 4 for designating information as CBI.
6. Certify that the attached files have been scanned for viruses and indicate what program was used.

Definitions

All terms used in this information request have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 et seq. or applicable regulations or state implementation plan.

1. The terms “document” and “documents” shall mean any object that records, stores, or presents information, and includes writings, memoranda, records, meeting notes, telephone discussion summaries, emails, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these, and any attachments to or enclosures with any such objects.
2. The terms “relate to,” “in relation to” or “pertain to” (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating, or relevant to.

Appendix 2

Statement of Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines or imprisonment.

(Signature)

(Title)

(Date)

Appendix 3

Confidential Business Information Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering all or part of the information requested in response to this information request, as provided in 40 C.F.R. Section 2.203(b). You may assert a business confidentiality claim covering such information by placing on (or attaching to) the information you desire to assert a confidentiality claim, at the time it is submitted to the EPA, a cover sheet, stamped, or typed legend (or other suitable form of notice) employing language such as “trade secret” or “proprietary” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. If you desire confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Clean Air Act (the Act) and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification in accordance with 40 C.F.R. Part 2, subpart B. The criteria for determining whether material claimed as confidential is entitled to such treatment are set forth at 40 C.F.R. Sections 2.208 and 2.301, which provide, in part, that you must satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; that the information is not and has not been reasonably obtainable by legitimate means without your consent; and the disclosure of the information is likely to cause substantial harm to your business’s competitive edge.

Pursuant to 40 C.F.R. Part 2, subpart B, the EPA may at any time send you a letter asking you to substantiate fully your CBI claim. If you receive such a letter, you must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information. If you receive such a letter, the EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being subject to CBI, you must answer the following questions, giving as much detail as possible, in accordance with 40 C.F.R. 2.204(e):

1. What specific portions of the information are alleged to be entitled to confidential treatment? For what period of time do you request that the information be maintained as confidential, until a certain date, until the

occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
8. Any other issue you deem relevant.

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. Section 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B.

Emission data means, with reference to any source of emission of any substance into the air:

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. Sections 2.301(a)(2)(i)(A), (B) and (C).

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.